GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services - Departmental Proceedings – Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW & CDA, Gunturu - Mis-appropraiton of Govt. funds by Smt.G.Seetharamulu, Supervisor (Grade-II), ICDS Project, Shankavaram, E.G.District by mis-utilising the food stocks and non – payment of honorarium - Retired from service on 31-01-2011 on attaining the age of superannuation - Failed in referring the case to Government under Rule – 9 (2) (a) of A.P.R.P.Rules, 1980 - Disciplinary Proceedings initiated under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991- Articles of Charges - Issued.

DEPARTMENT FOR WOMEN CHILDREN DIFFERENTLY ABLED AND SENIOR CITIZENS (ESTT-A3)

G.O.RT.No. 127 Dated: 06-07-2016
Read the following:-

1. From Director, W.D & C.W., A.P., Hyderabad, Lr.No.3802/Vig./2011, dated 02-09-2015 received in Govt. on 28-01-2016.
2. Hon'ble A.P.A.T notice dated 30-12-2015 in O.A.No.7313 of 2015 filed by Smt.G.Seetharamulu, Retd. Supervisor, ICDS Project, Sankhavaram, E.G.District.
3. Govt. Memo.No.58/Estt.A3/2016-1, dated 03-02-2016.
4. From th Special Commissioner, W.D. & C.W, A.P., Hyderabad, Letter No.3808/C1/2011, Dt:17.03.2016.
5. Govt Memo.No.58/Estt.A3/2016-5, dated 9-5-2016.
6. From the Special Commissioner, W.D. & C.W, A.P., Hyderabad, Letter No.3808/C1/2011, dated 01.06.2016.

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ORDER :

It is proposed to hold an inquiry against Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu in accordance with the procedure laid down in Rule 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991.

2. The substance of the imputations of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in the enclosed statement of articles of charges (Annexure-I). A statement of imputation of misconduct or misbehaviour in support of each article of charge is enclosed (Annexure–II). A List of documents by which and a list of witnesses by whom the articles of charges are proposed to be sustained are also enclosed (Annexure III and IV).

3. Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu is directed to submit within 10 days of the receipt of this memorandum, a written statement of the defense and also to state whether he desires to be heard in person.

4. Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu is informed that an inquiry will be held only in respect of those articles of charges that are not admitted. She should, therefore, specifically admit or deny each article of charge.

5. Smt.M.J.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu is further informed that if she does not submit her written statement of defense on or before the date specified in Para 3 above or does not appear in person before the enquiry authority or otherwise fails or refuses to comply with the provision of rule 20 of APCS (CCA) Rules 1991 and the directions issued in pursuance of schedules, the enquiry authority will hold an enquiry against her Ex-Parte and further action will be processed based on the material available on records.

6. Attention of Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu is invited to Rule 24 of the A.P.Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to furtherance of her interest in respect of matters pertaining to her service under the Government. If any representation is received on her behalf from another person in respect of any matter with these proceedings it will be presumed that Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu is aware of such a representation and that it has been made at her instance and action will be taken against her for violation of Rule 24 of APCS (Conduct) Rules, 1964.

7. The receipt of the G.O., along with the copies of basis of charges be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr.(Smt.) POONAM MALAKONDAIAH,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC).

To
Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA,
Gunturu through the Spl.Commissioner, WD & CW, Hyderabad.
The Spl. Commissioner, WD & CW, A.P. Hyderabad with a direction to
serve the G.O., to the Charged Officer and furnish the served copy, with dated acknowledgement to Govt. for record.
Copy to:
The Regional Joint Director, Women Development & Child Welfare, Eluru.
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER

ANNEXURE-I

Statement showing the details of charges against Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu.

Charge No.I:- That, Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu, while working as PD, WD&CW, Kakinada from 22-05-2013 to 30-11-2014 has failed to refer the case of misappropriation of Government funds of Rs. 2,35,816/- by Smt.G.Seetharamulu, Supervisor, ICDS Project, Sankavaram, East Godavari District, (retired on 31-1-2011) to the Govt. under Rule – 9 (2) (a) of APRP Rules 1980, which resulted in invalid Article of Charges as per efflux of four years of limitation as prescribed in APRP Rules 1980, and for legal complications to the Govt. by filing of O.A.No.7313/2015 for settlement of pensionery benefits with permissible interest accrued thereon for the period of delay, and indirectly caused misappropriation of Government funds of Rs.2,35,816/-, which constitutes misconduct of failure to maintain absolute integrity and devotion to duty and commission of an act unbecoming of a Government servant, in violation of sub-rules (1) and (2) of Rule 3 of the APCS (Conduct) Rules, 1964."

Dr.(Smt.) POONAM MALAKONDAIAH,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC).

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ANNEXURE-II

Statement showing the details of imputations in respect of charge framed against Smt. Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW & CDA, Gunturu.

Vide Lr.No.29/A/2011, dt:1-4-2011, the CDPO, ICDS Projet, Rangampeta, has submitted enquiry report regarding misuse of food stocks in ICDS Project, Sankavaram to the PD, DW&CDA, Kakinada requesting to take further action.

Vide file.no.44/A1/2011, dt:8-6-2011, the Project Director, Kakinada, has submitted an enquiry report which was conducted based on the complaint filed by AP Anganwadi Workers and Helpers Association dt:24-3-2011 regarding variation in supply of nutrition food in 02/2011 in the ICDS Project, Sankavaram. In the said report, the PD, Kakinada, has stated that Smt.G.Seetharamulu, Supervisor (Retd.) ICDS, Project, Sankavaram Kakinada District was directly or indirectly responsible for the allegations. Further, vide memo.no.3808/Vig-3/2011, dt:1-7-2011, duly enclosing the enquiry report of PD, Kakinada, the Director, WD&CW, A.P. had brought the said allegations to the notice of the RDD, WD&CW, Eluru, directing to furnish her detailed remarks along with supporting documentary evidences. But, as per the Lr.No.408/A/2011, dt:5-7-2011, the RDD, WD&CW, Eluru, had failed to report on the allegations made against Smt.G.Seetharamulu, Supervisor, ICDS Project, Sankavaram, who was already retired on 31-1-2011.

Vide Rc.No.44/A1/2010, dt:15-6-2011 of PD, DW&CDA, Kakinada, Smt.G.Seetharamulu, Supervisor Gr-II, ICDS Project, Sankavaram (Retd.) was called for explanation on the allegations levelled against her duly marking a copy to the RJD, WD&CW, Eluru.

Vide Memo.No.156/A/2012, dt:17-5-2012, the RJD, WD&CW, Eluru, has requested the PD, DW&CDA, Kakinada to submit report regading misuse of Food Stock supplied to AW Centers by Smt.G.Seetharamulu, Supervisor Gr-II, ICDS Project, Sankavaram and as per Lr.No.44/A1/2011, dt:11-6-2012, the PD, DW&CDA, Kakinada, had enclosed the same enquiry report which was submitted earlier i.e., file.no.44/A1/2011, dt:8-6-2011, to the RJD, WD&CW, Eluru.

Vide Memo.No.156/A/2012, dt:28-6-2012, 4-9-2012 and 4-12-2012, the RJD, WD&CW, Eluru, had requested the PD, DW&CDA, to submit detailed enquiry report duly mentioning the amount to be recovered from Smt.G.Seetharamulu, Supervisor Gr-II, ICDS Project, Sankavaram. Vide Rc.No.44/A1/2011, dt:20-12-2012, the PD, DW&CDA, Kakinada has informed that the enquiry was already conducted and submitted report vide Lr.No.44/A1/2011 dt:8-6-2011, hence the PD, DW&CDA, Kakinada has requested clear instructions.

Vide Memo.No.1087/A/2010, dt:20-10-2014, the RDD, WD&CW, Eluru had directed the PD, DW&CDA, Kakinada, to submit enquiry report with final conclusions within one week. In turn the PD, DW&CDA, Kakinada had requested the RJD, WD&CW, Eluru, to appoint Enquiry Officer from other District as per file.no.44/A1/2011, dt:25-11-2014.

Vide Memo.No.44/A1/2011, dt:6-12-2014, the PD, DW&CDA, Kakinada, had appointed the CDPO, ICDS Project, Rajamundry, as Enquiry Officer and enquiry report was submitted vide Lr.No.152/2014, dt:24-3-2015.

Vide Rc.No.44/A1/2015, dt:15-5-2015, the PD, DW&CDA, Kakinada, had submitted enquiry report to the RJD, WD&CW and finally, the enquiry report was submitted to the Director, WD&CW, A.P., by the RJD, WD&CW, Eluru, arriving the misappropriation of amount of Rs.2,35,816/- by Smt.G.Seetharamulu, Supervisor Gr-II, ICDS Project, Sankavaram (Retd.), vide Rc.No.1087/A/2010, dt:9-7-2015.

Vide Lr.No.3808/Vig/2011, dt:2-9-2015, the Director, WD&CW, A.P., had submitted enquiry report to the Government to initiate disciplinary action against Smt.G.Seetharamulu, (Retd.) Supervisor Gr-II, ICDS Project, Sankavaram, as the Govt. is competent to take action against retired Government servant.

Meanwhile, Smt.G.Seetharamulu,(Retd.) Supervisor Gr-II, ICDS Project, Sankavaram had filed the O.A.No.7313/2015 for not settling the pension and pensionery benefits in full to her even after long lapse of four years after her retirement from service without there being pendency of any disciplinary proceedings against her and the applicant had sought relief to settle the pension and pensionery benefits in full along with permissible rate of interest accured thereon for the period of delay. The APAT in its orders dated 12-2-2016 in O.A.No.7313 of 2015, had disposed the original application at the admission stage with the following directions:

i. If departmental proceedings had been initiated against applicant under the APCS (CC&A) Rules, while she was in service, the proceedings will be deemed to be proceedings under Rule 9 of Revised Pension Rules, 1980, In such an event, being the disciplinary authority is directed to submit a report recording its findings on the enquiry report to the Government within three months from the date of receipt of copy of this order and thereafter the Government is directed to conclude the same within three months or within six months together. Failing which to pay Service Pension after deduction of the Provisional Pension already paid and other pensionary benefits due to the applicant with 9% simple interest per year for the period of delay, within three months thereafter.

ii. In case no departmental proceedings had been initiated against the applicant when she was in service, and no prior sanction is accorded under sub-clause (i) of clause (b) of sub rule (2) of Rule-9 of the Revised Pension Rules, 1980 to initiate departmental proceedings against the applicant, to pay Service Pension after deduction of the Provisional Pension already paid and other Pensionary benefits due to the applicant with 9% simple interest for the period of delay, within three months.

Vide.G.O.Ms.No.17, dt:01-04-2016 of WCD&SC Dept. and G.O.Rt.No.76, dt:1-04-2016 of WCD&SC Dept. the Government had initiated departmental proceedings against Smt.G.Seetharamulu, Supervisor Grade-II, ICDS Project, Sankavaram, East Godavari District and now retired. But, after four years and three months after the retirement of the individual the said Article of Charges are not valid, as per the efflux of four years limitation prescribed in APRP rules 1980.

As per Rule -9(2) (a) of A.P. Revised Pension Rules, 1980, 'the departmental proceedings referred to in sub-rule)1), if instituted while the Government Servant was in service whether before his retirement or during his re-employment, shall after the final retirement of the Govt. servant, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the Government servant had continued in service. Provided that where the departmental proceedings are instituted by an authority subordinate to the State Government, that authority shall submit a report recording its findings to the State Government.

Therefore, initiation of departmental proceedings against Smt. G.Seetharamulu, Retd. Supervisor Grade-II, who had retired from service on 31-1-2011 was referred after a lapse of five years due to redundant correspondence by the RJD, WD&CW, Eluru and PD, DW&CDA, Kakinada, as said in the above paras, which had been created unnecessary legal complications to the Govt. through O.A.No.7313/2015 for settlement of pensionery benefits with permissible interest accrued thereon for the period of delay and also let the accused to get away from initiation of departmental proceedings.

Dr.(Smt.) POONAM MALAKONDAIAH,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC).

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SECTION OFFICER

ANNEXURE-III

Statement showing the details of basis of charges against Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu.

1. Lr.No.29/A/2011, dt:1-4-2011 of CDPO, ICDS Project, Rangampeta.
2. file.no.44/A1/2011, dt:8-6-2011, of Project Director, Kakinada.
3. Memo.no.3808/Vig-3/2011, dt:1-7-2011, of Dir., WD&CW, A.P., Hyd.
4. Lr.No.408/A/2011, dt:5-7-2011, of RDD, WD&CW, Eluru.
5. Rc.No.44/A1/2010, dt:15-6-2011 of PD, DW&CDA, Kakinada.
6. Memo.No.156/A/2012, dt:17-5-2012, of RJD, WD&CW, Eluru.
7. Lr.No.44/A1/2011, dt:11-6-2012, of PD, DW&CDA, Kakinada
8. Memo.No.156/A/2012, dt:28-6-2012, of RJD, WD&CW, Eluru.
9. Memo.No.156/A/2012, 4-9-2012, of RJD, WD&CW, Eluru
10. Memo.No.156/A/2012, 4-12-2012, of RJD, WD&CW, Eluru.
11. Rc.No.44/A1/2011, dt:20-12-2012, of PD, DW&CDA, Kakinada.
12. Memo.No.1087/A/2010, dt:20-10-2014, of RDD, WD&CW, Eluru.
13. file.no.44/A1/2011, dt:25-11-2014 of PD, DW&CDA, Kakinada.
14. Memo.No.44/A1/2011, dt:6-12-2014, of PD, DW&CDA, Kakinada.
15. Lr.No.152/2014, dt:24-3-2015, of CDPO, ICDS Project, Rajamundry.
16. Rc.No.44/A1/2015, dt:15-5-2015, of PD, DW&CDA, Kakinada.
17. Rc.No.1087/A/2010, dt:9-7-2015, of RJD, WD&CW, Eluru.
18. Lr.No.3808/Vig/2011 dated 2-9-2015 of Director, WD&CW, A.P., Hyd.
19. Hon'ble APAT orders dt:12-2-2016 in O.A.No.7313 of 2015.

Dr.(Smt.) POONAM MALAKONDAIAH,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC).

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ANNEXURE-IV

Statement showing details of witnesses in respect of charges against Smt. MJ.Nirmala, former PD, DW&CDA, Kakinada, present PD, DW&CDA, Gunturu.

-Nil-

Dr.(Smt.) POONAM MALAKONDAIAH,
PRINCIPAL SECRETARY TO GOVERNMENT (FAC).

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